U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

United States Bankruptcy Judge

Signed October 14, 2010

Vickie L. Driver
State Bar No. 24026886
Courtney J. Hull
State Bar No. 24061297
Coffin & Driver, PLLC
7557 Rambler Road
Suite 110
Dallas, Texas 75231
Telephone: 214.377.4848
Facsimile: 214.377.4858
Email: vdriver@coffindriverlaw.com
Email: chull@coffindriverlaw.com

PROPOSED COUNSEL FOR DEBTOR

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	
	§	
VALLEY DALE CROSSING, LTD.,	§	**CASE NO. 10-36294-11**
	§	
Debtor.	§	
	§	**CHAPTER 11**
	§	

ORDER GRANTING MOTION FOR AN ORDER (I) AUTHORIZING THE USE OF CASH COLLATERAL, IF ANY, PURSUANT TO SECTIONS 105, 361, 362, 363 AND 364 OF THE BANKRUPTCY CODE AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 4001(B) AND (II) GRANTING ADEQUATE PROTECTION TO THE PRE-PETITION SECURED LENDERS

Before the Court is Valley Dale Crossing, Ltd.'s (the "Debtor") *Motion for Order (I) Authorizing the Use of Cash Collateral, if Any, Pursuant to Sections 105, 361, 362, 363, and 364 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 4001(B) and (II) Granting Adequate Protection to the Pre-Petition Secured Lender* (the "Motion"), [Docket No. 14]. The Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. § 157; and venue being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having considered the statements made in the Motion, arguments and statements made on the record by the parties at the hearing on the Motion on October 12, 2010 at 2:00 p.m. before this Court (the "Hearing") the Court hereby finds:

1. The Property is property of the Debtor's estate pursuant to Section 541 of the Bankruptcy Code. Each of the Lenders asserts a secured claim in the Property.

2. The Property currently generates rents from tenants (the "Rents").

3. The Lenders each assert that their respective loan documents grant to them an assignment of the Rents. The Debtor disputes that such assignment removes the Rents from property of the estate, and as such, has sought use of the Rents for the continued operation of the Property for the benefit of all creditors, including the Lenders.

4. Without deciding whether the Rents were absolutely or collaterally assigned to the Lenders, and/or whether such rents are cash collateral, the Lenders and the Debtor have agreed to allow the Debtor to use the Rents as provided herein. It is therefore,

ORDERED, that Motion is GRANTED as set forth herein. It is further,

ORDERED, that the cash generated by the Debtor post-petition from the use of the Property, including the Rents collected from any lease of the Property, are available for use by the Debtor as provided in this Order; it is further

ORDERED, that the Debtor make monthly adequate protection payments to the Tax Ease Lender in the amount of $305.56, to be paid on or before the first day of each month unless otherwise ordered by this Court or agreed to by the Tax Ease Lender and the Debtor; provided, however, that the October 2010 payment shall be made upon entry of this Order; it is further

ORDERED, that the Debtor make monthly adequate protection payments to the CNB Lender in the amount of the Debtor's Excess Cash Flow, defined as any cash remaining after the collection of all income, and the payment of all expenses as authorized by the Court, leaving a balance of $5,000.00 in the Debtor's operating account for the purpose of maintaining a reasonable reserve. Such monthly payments shall be due to the CNB Lender on the first business day following the 20th of the successive month (i.e., for October, the payment shall be due on November 22, 2010), beginning in November 2010 unless otherwise ordered by this Court or agreed to by the CNB Lender and the Debtor; it is further

ORDERED, that the Debtor may use the Rents received from tenants of the Property in conformity with the monthly budget for October 2010, and all successive months for the remainder of the above captioned bankruptcy case (the "Budget") attached to this Order as **Exhibit "A"**. The Debtor may use Rents only up to the amounts shown for each line item in the Budget, except Debtor may exceed any line item amount with respect to amounts due for each respective month up to 10% of such item, but only on the condition that total expenditures do not exceed 5% of the amount of the Budget or as may otherwise be agreed in writing by the CNB Lender and the Debtor. It is further,

ORDERED, that to secure the Debtor's indebtedness to Lenders, and solely to the extent of any diminution in the value of the interest of each of the Lenders in their property or collateral because of the Debtor's use of Rents during the term of this Order, the Lenders are hereby granted replacement liens and security interests, in addition to the liens and security interests in the Debtor's property in which such Lenders held a perfected security interest or lien when this case commenced, in the cash generated by the Debtor's use. These replacement liens are granted only to the extent that the Lenders hold valid, enforceable, fully perfected and unavoidable pre-petition liens in and on such property; provided however, that nothing herein shall provide to the Lenders a lien on causes of action arising under chapter 5 of the Bankruptcy Code. These replacement liens shall be subject to all validly perfected pre-petition liens including, but not limited to, statutory liens for unpaid real estate taxes. To the extent that any applicable non-bankruptcy law would restrict the granting, perfection, enforceability, or attachment of the liens and security interest authorized or created by this paragraph, or otherwise would impose filing restrictions or requirements with respect to such replacement liens or new liens, such law is pre-empted to the maximum extent permitted by the Bankruptcy Code, or other federal law, and the judicial power of the United States Government. It is further,

ORDERED, that any cash held by the Debtor, including the $5,000 emergency reserve, shall be held by the Debtor and not used for any purpose until further order of the Court unless otherwise agreed to in writing by CNB Lender and the Debtor. It is further,

ORDERED, that the Debtor shall maintain insurance on Lenders' collateral (the Property) naming the CNB Lender as an additional insured. It is further,

ORDERED, that any objection the Debtor could raise as to the validity, perfection and lien priority (inferior only to liens for unpaid real estate taxes) of Lenders' liens on the Property and the validity, or priority or the amount of outstanding debt as of the commencement of this bankruptcy case shall be forever waived on a final basis unless the Debtor initiates an appropriate proceeding to contest either Lender's lien perfection, validity, or priority or the outstanding debt amount owed by the Debtor to Lenders as of the commencement of this case before November 9, 2010. It is further,

ORDERED that the terms of this Order shall in no way prejudice any (i) subsequent trustee, (ii) statutory committee or (iii) any party in interest that would otherwise have standing, to contest the pre-petition interests of the Lenders in the Debtor's property and the amounts of the Debtor's indebtedness to the Lenders. It is further,

ORDERED, that the line item in the Budget regarding "Legal Fee Reserve" shall only be used for professional fees and expenses of the Debtor in the event the Court has entered an order authorizing the employment of such professional and such fees have been properly approved, whether used as a post-petition retainer or under any approved compensation procedure, or fee application process. It is further

ORDERED, that this Order shall in no way prejudice Lenders from seeking relief from the stay, requesting adequate protection beyond what is granted in this Order, or seeking any further relief from this Court. It is further,

ORDERED, that any fees owed by the Debtor to the United States trustee shall be entitled to a carve-out of any of the Lenders' collateral under 11 U.S.C. § 506(c) only up to the amount of such fees. It is further

ORDERED, that the Court shall retain jurisdiction over this Order and any relief granted herein.

****END OF ORDER****